

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH  
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY THIRD DAY OF DECEMBER  
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE SRI JUSTICE C.V.RAMULU**

**WRIT PETITION No.6704 of 1996**

Between:

Nutangani Maraiah S/o. Venkat Ratnam  
President, Municoodali P.A.C.S. (via) Torrodu,  
Seethanagara Mandal, E.G.District.

**..... PETITIONER**

AND

- 1 The Chairman, Industrial Tribunal & Presiding Officer,  
Labour Court, Visakhapatnam.
- 2 M. Veerraju C/o. G. Narayana Murthy,  
D.No. 70-14-6, Syamalanagar,  
Rajahmundry, E.G.Dist.
- 3 The Divisional Co-operative Officer,  
Prakashnagar, Rajahmundry.
- 4 The District Co-operative Officer,  
Elinpeta, Kakinada, E.G.Dist.
- 5 General Manager, the District Co-operative Central Bank Ltd.,  
Kakinada.

**.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, direction or order more particularly one in the nature of Certiorari calling for the records in M.P.No.4 of 1992 dated 13-10-1995 on the file of the 1st Respondent herein and quash the same as illegal, contrary to law and vitiated by errors apparent on the face of the record and errors of jurisdiction.

**Counsel for the Petitioner: Mr.M.V.DURGA PRASAD**

**Counsel for Respondents 1,3&4: GP FOR COOPERATION**

**Counsel for Respondent No.2 : None appeared**

**Counsel for Respondent No.5 : Mr. C.V. MOHAN REDDY**

**The Court made the following :**

**W.P.No.6704 of 1996**

-

**ORAL ORDER:**

-

This Writ Petition is filed by the President of Muncoodali Primary Agricultural Cooperative Society, Seethanagaram Mandal of East Godavari District being aggrieved by the Order dated 13-10-1995 passed in M.P.No.4 of 1992 on the file of the Industrial Tribunal-cum-Labour Court, Visakhapatnam.

The said M.P.No.4 of 1992 was filed by the 2<sup>nd</sup> respondent herein (workman) under Section 33-C(2) of the Industrial Disputes Act, 1947 for recovery of an amount of Rs.24,238/- from the petitioner and respondents 3 to 5 herein being the salary from 1-8-1989 to 27-10-1989 and difference of subsistence allowance paid during his suspension from service pending enquiry. Petitioner herein filed a detailed counter before the Labour Court stating that the workman misappropriated the funds of the society and also absconded from service; therefore, he is not entitled for subsistence allowance. Respondents 3 to 5 herein also filed separate counters. In fact, respondents 3 and 4 herein stated in their counters that the workman is entitled for subsistence allowance since 28-10-1989 and though the writ petitioner was directed to pay the same to the workman, it was not paid. Before the Labour Court, on his behalf, the workman was examined himself as W.W.1 and marked Exs.W1 to W3, and for the Management M.W.1 was examined and Exs.M1 to M9 were marked. On appreciation of the entire evidence on record, the Labour Court allowed the petition against the petitioner herein for recovery of Rs.24,238/- with interest at 10% per annum from 1-4-1992 till the date of payment. Aggrieved by the same, the

Management filed the present Writ Petition.

Heard both sides and perused the entire material on record including the impugned Award.

The Labour Court went into each and every aspect of the evidence and came to the conclusion that the workman is entitled to recover the amount claimed by him with interest at 10% per annum. The Labour Court found that M.W.1 merely stated in his statement that the workman is not entitled for subsistence allowance as he had misappropriated the funds of the Society and this statement was not supported by any rule and in fact, the same is against the Rules and Bye-laws of the society. Thus, admittedly, the workman was not paid the salary and subsistence allowance as claimed by him. Under those circumstances, it was held that the Management cannot rely upon the bye-laws of the Society for rejecting the subsistence allowance to the workman and the workman is entitled for subsistence allowance as per Rule 53 of the Fundamental Rules and, as such, allowed the petition of the workman. No case is made out to interfere with the said Award passed by the Labour Court. The Writ Petition is devoid of merits and liable to be dismissed.

Accordingly, the Writ Petition is dismissed. No costs

23-12-2004

prk

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

- 1 The Chairman, Industrial Tribunal & Presiding Officer,  
Labour Court, Visakhapatnam.
- 2 M. Veerraju C/o. G. Narayana Murthy,  
D.No. 70-14-6, Syamalanagar,  
Rajahmundry, E.G.Dist.
- 3 The Divisional Co-operative Officer,  
Prakashnagar, Rajahmundry.
- 4 The District Co-operative Officer,  
Elinpeta, Kakinada, E.G.Dist.
- 5 General Manager, the District Co-operative Central Bank Ltd.,  
Kakinada.
6. 2CCs to G.P. for Cooperation, High Court Buildings, Hyderabad (OUT)
7. 2CD copies